	Case 1:02-cv-00479-MRB	164-14	Filed 07/13/2007 Page 1 of 8 6
1	DIRECT EXAMINATION BY MR. ROBERTS:	1	20 percent to an entity affiliated with Zurik
ot 55 11 2	Q. Good afternoon, Mr. Bonsall. My name is	2	Financial Services so that you and Mr. Anderson each
3	Mike Roberts. We met briefly in the hallway. I	3	owned 30 percent and that entity affiliated with
4	represent Chris Kearney who has been sued by	4	Zurik owned 40 percent, is that right?
5	Jefferson-Pilot in this action.	03.56.0% <b>5</b>	A. You got the percentages right. The name of
03.55.21 6	You're the president of DMS, correct?	6	the entity, I think it's all within the Zurik family
B 55.24 7	A. Yes.	7	of companies, if you will, so I think essentially
ni 55.24 <b>8</b>	Q. And founder?	8	it's correct.
п) 35 2ь 9	A. Co-founder of the company, yes.	91.56.21 9	Q. It's like Center Bermuda Solutions Limited.
o) 55 27 <b>10</b>	Q. With John Anderson?	10	or something like that?
as 55 30 11	A. That's correct.	03 56 25 11	A. Center Reinsurance Limited Bermuda, or
a1.55.30 12	Q. And you presently own 30 percent equity in	12	something like that. Close.
13	DM5?	03 56.30 13	Q. Sir, have you gotten any reports today
03:55:33 14	A. That's correct.	14	about Mr. Ditmar's testimony throughout the day?
03.55.34 <b>15</b>	Q. Did you initially own 50 percent equity in	a) 56.39 15	A. Reports, you mean
16	DMS?	e3 56.43 <b>16</b>	Q. Written reports or oral reports. A
u3.55 37 <b>17</b>	A. I did.	17	gentleman in your general counsel office has been
01.55.38 18	Q. And both you and Mr. Anderson did in 1995	18	sitting over here connected to the Internet taking
19	when DMS was formed, correct?	19	copious notes, and I'm curious whether or not you've
03 55 45 <b>20</b>	A. Yes, DMS was formed in 1995.	20	been receiving directly from him or through some
03 55.48 21	Q. At that time each of you owned 50 percent	21	intermediary reports of the testimony that we just
22	of the entity?	22	undertook for the last six or seven hours.
03:55:51 23	A. That's correct.	03:37:01 23	A. The only thing that I'm aware of, there are
03.5552 24	Q. And subsequently the two of you each sold	24	two things, I guess, that there was some discussion
	ACCURATE COURT REPORTING (413) 747-1906	1	ACCURATE COURT REPORTING (413) 747-1806
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1		1	8  misrepresentation of facts to their policyholders, to
1 2	7 about name calling and some discussion about things being Mr. Ditmar being asked about things that	1 2	
	about name calling and some discussion about things		misrepresentation of facts to their policyholders, to
2	about name calling and some discussion about things being Mr. Ditmar being asked about things that	2	misrepresentation of facts to their policyholders, to policyholders for clients you work for?
2 3	about name calling and some discussion about things being Mr. Ditmar being asked about things that didn't pertain to this matter, pertaining to another	03:52:49 <b>3</b>	misrepresentation of facts to their policyholders, to policyholders for clients you work for?  A. Would I condone my employees'
2 3 4	about name calling and some discussion about things being Mr. Ditmar being asked about things that didn't pertain to this matter, pertaining to another matter.	2 03:51:40 3 4	misrepresentation of facts to their policyholders, to policyholders for clients you work for?  A. Would I condone my employees' misrepresentations of facts to any policyholders, no,
2 3 4 u3:57:25 5	about name calling and some discussion about things being Mr. Ditmar being asked about things that didn't pertain to this matter, pertaining to another matter. Q. Those are the only two things that have	0359149 3 4 5	misrepresentation of facts to their policyholders, to policyholders for clients you work for?  A. Would I condone my employees' misrepresentations of facts to any policyholders, no, I would not.
2 3 4 ussr.as 5 6	about name calling and some discussion about things being Mr. Ditmar being asked about things that didn't pertain to this matter, pertaining to another matter. Q. Those are the only two things that have been shared with you about his six hours of testimony? A. Yes.	03.58.49 3 4 5 5 03.58.56 6 7 03.58.03 8	misrepresentation of facts to their policyholders, to policyholders for clients you work for?  A. Would I condone my employees' misrepresentations of facts to any policyholders, no, I would not.  Q. What would you do in the instance of discovery of such occasion?  A. If I was informed as to a
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2 3 4 03.57.25 5 6 7 03.57.28 8 03.57.38 9 10	about name calling and some discussion about things being Mr. Ditmar being asked about things that didn't pertain to this matter, pertaining to another matter. Q. Those are the only two things that have been shared with you about his six hours of testimony? A. Yes. Q. When did you first receive what is your memory of the first time you ever heard about a	03.58.49 3 4 5 5 03.58.56 6 7 03.59.03 8 9 10	misrepresentation of facts to their policyholders, to policyholders for clients you work for?  A. Would I condone my employees' misrepresentations of facts to any policyholders, no, I would not.  Q. What would you do in the instance of discovery of such occasion?  A. If I was informed as to a misrepresentation, I'd want to know what the circumstances were, what the misrepresentation was
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1	second client for DMS after Travelers?	1	they felt that the companies that they reinsured were
04 (NH196 2	A. I believe that's true, yes.	2	not doing as thorough a job or as good a job as they
154 (881-87) 3	Q. And Travelers was your first client that	3	would like, and so they were looking for resources to
4	you had the day you opened shop?	4	help those companies improve their performance, their
·xx-12 5	A. That's correct.	5	work.
·m o 6	Q. You and Mr. Anderson previously worked at	94.0F3¥ 6	Q. How did it come to pass that DMS came into
7	Travelers, correct?	7	contact with Employers Reinsurance for that
14 00:19	A. That's correct.	8	opportunity to provide that service?
14 and 19	Q. And did Mr. Anderson report to you at	04.01.45 9	A. I think somebody must have referred them to
10	Travelers?	10	us, somebody who knew us from our work in the
94 00 22 11	A. He did.	11	industry, I believe that's the case. And that they
14-00-23 12	Q. The two of you left Travelers sometime	12	contacted us and said, "We understand that you
13	after Travelers made the decision to get out of the	13	fellows are experienced in managing disability income
14	business of selling disability insurance policies?	14	insurance claims and that you set up a company to do
0400033 15	A. Yes, that's correct. They stopped selling	15	that kind of work, and we have a need."
16	disability insurance before we moved down from there.	04:02:16 16	Q. Do you know who it was who made the
04:00:43 17	Q. How did it come to be that DMS entered a	17	referral?
18	contract with Employers Reinsurance Corporation?	04:02:26 18	A. I am not sure. I have I think it was
04-00:52 19	A. My recollection is that Employers	19	probably an accounting firm. That's my best
20	Reinsurance was looking for some people with	20	recollection.
21	expertise and experience in investigating and	194-92-42 21	Q. Did you personally know anybody affiliated
22 23	managing disability insurance claims who had	22	with Employers Reinsurance Corporation prior to the
23	knowledge of the disability insurance industry; that	23	conduct of the negotiations that led to the April 1,
67	they had reinsured some blocks of business, and that	24	'97 agreement with Employers Reinsurance?
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04:03:01 1	11  A. I had met the people at Employers	0454:23 1	12 Q. Yes.
14:03:91 <b>1 2</b>		1414-23 <b>1</b> 1414-24 <b>2</b>	Q. Yes.
	A. I had met the people at Employers     Reinsurance prior to April 1, but I didn't know them     prior to our initial meeting that led to the	1	Q. Yes.
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2	A. I had met the people at Employers     Reinsurance prior to April 1, but I didn't know them     prior to our initial meeting that led to the	84-04-24 Z	Q. Yes.  A. I believe that I was directly involved in negotiating that contract, yes.
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2 3 4 5 5 04 03.19 6 7 8 9 04 03.27 10 11 12 12 14 03.55 13 14 15 16 17 18 19 20 04 04.14 23 1	A. I had met the people at Employers Reinsurance prior to April 1, but I didn't know them prior to our initial meeting that led to the negotiation of that contract, if I understand your question correctly.  Q. Prior to the negotiations that led to the agreement, prior to there being discussion about an opportunity with Employers Reinsurance, you didn't know anybody affiliated with that organization?  A. I did not.  Q. And as I understand your testimony, they called you; they, Employers Reinsurance, called DM5?  A. That's my recollection. It's possible that somebody said to us, "We know somebody who's looking for some help and here's the name and here's the number," but I don't remember whether we called them or they called us. My recollection is somebody recommended us to them and that's how they learned about us, and whether or not they called us or we called them, I don't recall.  Q. Did you conduct the negotiations on behalf of DM5, you personally?  A. Are you referring to the negotiation on	04-04-24 2 3 3 04-04-27 4 5 04-04-32 6 04-04-37 7 8 04-04-46 9 10 11 12 13 14 04-05-10 15 04-05-1) 16 17 18 19 20 14-05-54 21 14-05-50 22 23	Q. Yes.  A. I believe that I was directly involved in negotiating that contract, yes.  Q. Did you share that responsibility with anyone?  A. Probably John Anderson.  Q. What insurance companies did ERC reinsure at that time?  A. I assume you're asking me about disability insurance. I'm sure they reinsure a large number of insurance companies across a spectrum of products and I don't know all of them certainly, but I have a better idea of the disability carriers that they reinsure.  Q. Okay, let's start there.  A. They reinsured Connecticut Mutual, Mutual Benefit Life Insurance, Jefferson-Pilot Life, Provident Life & Accident. They reinsured Jefferson-Pilot. There was one other company I know that is escaping me at the moment.  Oh, I'm sorry, New York Life.  Q. Does the Employers Reinsurance agreement

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1	agreement?	1	claim <b>s?</b>
٠, ١	A. I believe so, yes.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	A. I don't recall any dollar threshold.
. 1		ынжы 2	Q. It wasn't a certain type of disability,
њии <b>3</b>	i e e e e e e e e e e e e e e e e e e e	14 4	<b>,</b>
4	understanding of the work that ERC would be sending	1 1	whether it be psychiatric or residual?
5	you once the agreement had been executed?	ыция 5	A. No, I don't think there was any specific
ники 6	A. As regards to that agreement, I believe	6	criteria concerning the type of diagnosis or the type
7	that we were being asked to review disability claim	7	of benefits.
8	files, assist in investigating those files, assist in	114 das 2n - 8	Q. Do you maintain any notes of your
9	evaluating information, communicating with	9	negotiations?
10	policyholders, supporting the adjudication process of	оден 14 10	A. I don't know that I took any notes of those
11	those companies, helping them reach decisions	11	negotiations. I doubt very much that I would have
12	including paying, denying, and settling claims.	12	retained any notes if I had them.
114 117 23 13	Q. Did Employers Reinsurance suggest to you	04 0K 44 13	Q. Is there anything related to that
14	during the cour <del>se of</del> the negotiations that led to the	14	transaction other than the written agreement itself
15	agreement any specific types of claims, or categories	15	that still exits today, as far as you know?
16	of claims, that would be forthcoming under the	ыншыя <b>16</b>	A. I doubt it.
17	agreement?	олья 37	Q. Who was your contact at Employers
04 07 to 18	A. They were all disability income insurance	18	Reinsurance during the negotiations?
19	claims. They were active claims and, I believe,	ங <b>ன 19</b>	A. Primary contact was Robert Linner.
20	pending claims. There were probably some claims that	20	L-I-N-N-E-R.
21	they reviewed that they wanted us to also review.	∞онон 21	Q. What was his position at Employers
22	And otherwise I don't remember that there are any	22	Reinsurance?
23	specific criteria.	04.04/15 23	A. He worked in their reinsurance claims
94 0¥ 05 24	Q. There wasn't a certain dollar level of	24	operation. I don't know what his title would have
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	15		16
1	been at that time. He was somebody that supported	04.10.52 1	Q. Let me rephrase it. Would there have been
2	their ceding companies or kind of oversaw the	2	any reason for you to have dialogue with anyone at
3	relationship on the claim end between ERC and their	3	Employers Reinsurance regarding DMS's work on
4	ceding companies.	4	Jefferson-Pilot claims that came to DMS?
a4 00 43 5	Q. What level or involvement or engagement did	04.H÷12 <b>5</b>	<ol> <li>Are you talking about at any time or</li> </ol>
6	you have with representatives of Employers	94:H:I4 6	Q. I'm talking about the '97 to 2000 time
7	Reinsurance after the agreement was executed?	7	frame.
04 <del>0453</del> 8	A. From time to time we would communicate,	(4:1).24 8	<ul> <li>A. I don't know that I had any discussion</li> </ul>
9	typically by phone, to discuss the work that we did	9	about any specific Jefferson-Pilot claims. I think I
10	and we were	10	might have I reviewed personally very few
134.10.07 11	Q. You personally?	11	Jefferson-Pilot claims, and I don't recall that I
ы лоца <b>12</b>	A. Yes.	12	ever actually worked on any Jefferson-Pilot claims.
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Q. Okay. N 1000 14 A. And we were doing some work on site 15 initially for like one particular client, so we would report on our visit to the client. 16 Q. That wasn't Jefferson-Pilot, was it? OH 10.23 17 A. No, it was not. 94 10F25 18 04 F0-28 19 Q. Would you have had any occasion after the 20 execution of the agreement to have any dialogue with 21 anyone at ERC about specific claims referred to DMS under that agreement on Jefferson-Pilot 22 23 policyholders? 14 10.50 24 A. Can you repeat that question?

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Q. I don't suspect that you did, and I asked you a higher level question. Would you have any reason to dialogue with anyone at Employers
Reinsurance regarding the claims that came to DMS that were written by Jefferson-Pilot?

A. Not about any specific claims or individual claims. Maybe about the body of work, the fact that we were handling claims on the whole, but not about any individual claims.

Q. That dialogue, the responsibility for that

dialogue stayed at your level rather than being delegated to someone subordinate to you?

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1	presumably it would be in the claim file.	04210) 1	Q. What would those marketing materials
ацтаа* 2	You know, if it was an instruction, "I want	2	consist of?
3	you to look at the Smith case" or that kind of thing,	0421.05 3	A. We have a capabilities piece that we
4	I'm not sure that that's anything that would have	4	created a couple years back that speaks to what our
5	been kept.	5	capabilities are. And we have a web site that speaks
04 19 10 <b>6</b>	Q. What sets DMS apart from its competitors?	6	to the same thing.
04.19.37 7	A. Well, we're kind of a unique company. It's	04.21.26 7	Q. Anything else?
8	not easy to define who our competitors are. In some	04 21 35 8	A. Those are the only marketing pieces that
9	respects it has to do with our the nature of our	9	we well, as far as DMS is concerned, those are the
10	company being a third-party administrator. There	10	only marketing pieces, I think, that we've got.
11	just aren't many, if any, other TPAs that do what we	04 21 53 11	Q. What information do you share with a
12	do. The disability insurance industry is a pretty	12	prospective client when you're out trying to secure
13	close-knit industry and there aren't a lot of	13	work for DMS?
14	companies that have the kind of expertise that we do.	64 22 04 14	A. Well, it depends in part on what they're
15	I would say that we have a unique combination of	15	asking for and what their needs are. We share
16	functional capabilities and operational capabilities	16	information about obviously things about who we
17	and skills that set us apart.	17	are, where we're located, the nature of the work we
04:20:35 18	Q. Are there any marketing materials that	18	do, the operational capabilities we have, how long
19	exist that describe how you set yourself apart?	19	we've been in business. In some cases we might
94 20:41 20	A. Yes, I would say so. I don't know if they	20	disclose who our clients are. If we're permitted to
21	specifically say what sets us apart, but they	21	do so, we'll do that.
22	describe what we do, so in that respect I think one	14.22:50 22	Q. Do you share with the prospect what the DMS
23	could infer what would set us apart from somebody	23	philosophy is about the administration of claims?
24	else.	04:23:00 <b>24</b>	A. It depends. If it's germane to a
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	23		24
1	23 discussion, then we would share that. Certainly if	1	that because, again, the process is a complex one and
1 2	discussion, then we would share that. Certainly if asked, we would.	1 2	
	discussion, then we would share that. Certainly if asked, we would. Q. Isn't that fairly basic, how you're going	2 3	that because, again, the process is a complex one and not well understood by lay people, that it's important to communicate with claimants about our
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2 (#23*H <b>3</b>	discussion, then we would share that. Certainly if asked, we would. Q. Isn't that fairly basic, how you're going	2 3 4 5	that because, again, the process is a complex one and not well understood by lay people, that it's important to communicate with claimants about our findings and decisions and to give them an opportunity to make sure that we understand the basis
2 4 4 42316 5	discussion, then we would share that. Certainly if asked, we would.  Q. Isn't that fairly basic, how you're going to administer claims?  A. The philosophy, I think, is pretty basic, sure.	2 3 4 5 6	that because, again, the process is a complex one and not well understood by lay people, that it's important to communicate with claimants about our findings and decisions and to give them an opportunity to make sure that we understand the basis for their claim and, if there's a difference of
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	Case 1:02-cv-00479-MRB <sub>25</sub> Documer	nt 164-14	Filed 07/13/2007 Page 5 of 8
04.26 01 1	A. I wouldn't say I regularly use it. I'd say	1	to. I don't know if this is the written record or
2	I actually made a presentation at a meeting once	2	not. I guess it this looks like probably a
3	where that was the topic of the presentation, but	3	transcript of that presentation, so I'm sure I read
4	it's not something that I regularly talk about.	4	the same thing.
·617 5	Q. When was the last time you saw a written	04.2×10 5	Q. Is this a summary or synopsis that you
6	record of that presentation?	6	prepared prior to the discussion, because it doesn't
14 36 27 7	A. Probably sometime within the last year I	7	appear to be an exact transcript like we're recording
8	read it.	8	today. But maybe it is.
142631 9	Q. Was it within the past week?	14 28 30 9	A. I'm not sure I understand the question.
04 26 32 10	A. No.	114 2H 32 10	Q. Do you have a sense of whether or not
84.26.37 11	Q. Was that in Dallas in the spring of 2001?	11	page 2, your name is in bold there, third paragraph.
04.26.42 12	A. The presentation was in Dallas. 2001	14 28 37 12	A. Mm-hmm.
13	sounds right.	84-21-31 13	Q. Do you have a sense of whether or not this
14 26.47 14	(Exhibit 40, marked)	14	is a verbatim recitation transcript of what you
04 26 54 15	Q. (By Mr. Roberts) I've marked as Exhibit 40	15	communicated at that meeting or whether this is some
J	a document that is ten pages long. It says, "Record,	16	kind of summary that you or someone else may have
16 17	Volume 27, No. 1, Dallas Spring Meeting, May 30-June	17	prepared?
18	1, 2001, Session 74PD, Disability Claim Management."	04 28:52 <b>18</b>	A. My belief is that it's a verbatim
· ·	Is that the written record that you were	19	
94:27:29 19	•		transcript.
20	referring to?	21	Q. And where your name is there on the second
B4:27:39 21	Well, two questions: Is this the	22	page, I think the third sentence which begins at the
22	discussion you were referring to and is this the	23	end of the third line, "I'm going to talk," do you
23	written record you were referring to?	1	see that?
14274 24	<ul> <li>A. This is the discussion that I'm referring</li> </ul>	194.29:14 24	A. Yes.
	ACCURATE COURT REPORTING (413) 747-1806		ACCURATE COURT REPORTING (413) 747-1906
	27		28
194.29:16 1	Q. You said, "I'm going to talk about managing	84:ME47 1	Q. Right.
2	expectations, and it's a significant issue and topic	04:30:47 2	A. I think the point that I was making there
3	for me because as we talk about claims management,	3	was that non-cancelable business is it can't be
4	what we're really talking about is managing claim	4	terminated by the issuing company, that it's a
5	outcomes."	5	long-term commitment that a company makes to a
04:29:29 6	Would that have been a direct quote of	6	policyholder without the potential to alter rates, so
7	yours?	7	that there are with other types of disability
64.29-33	A. I believe every word in this is a direct	8	business, companies can either cancel the coverage or
9	quote, so, yes.	9	raise the rates, and that doesn't happen with
04:2941 10	Q. And then in non-cancelable business, it's	10	non-cancelable business, so I think that's the point
11	your judgment that managing expectations becomes	11	I was trying to get at there.
12	particularly important, right?	14(31,36 <b>12</b>	Q. Well, you make the point that it's your
04:29:53 13	A. I said that, and I'm trying to remember why	13	sense that with regard to non-cancelable business
14	I said that, but where do you see it?	14	that managing expectations becomes particularly
<sub>ин зоня</sub> 15	Q. I'm sorry, it's the third page, page number	15	important, right?
16	3, the second paragraph, actually the first full	04.31 4K 16	A. I did say that, yes.
17	paragraph. It starts with "My company" and that is	04:31.54 17	Q. Does your company pay benefits, disability
18	essentially taken from the first half of that	18	benefits, total disability benefits for claims for
19	r ,		,
	paragraph, if you'd like to review it.	19	which there is only subjective information?
04:30:25 <b>20</b>	paragraph, if you'd like to review it.  A. This is on page 3, second paragraph?	19 (432% 20	which there is only subjective information?  A. Sometimes, yes, certainly.

04:32.09 **21** 

(4.32:2) 24

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Q. Is that something you do on a permanent

A. Well, I would say that there are claims

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basis, or is that just an interim measure until you

find some other way to resolve the claim?

04 to 27 21

a4:30:39 22 23

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A. So you're talking about the paragraph that

starts with "My company focuses exclusively on closed

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blocks of business"?

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au cu ss 1	Q. Well, the document speaks for itself as to	1	timely service for all these claims, right?
2	how the expenses are reimbursed and passed through,	35.00.07 <b>2</b>	A. I think that's a fair characterization.
3	right? I mean, 4A talks about section five as far as	05.01.11 3	Q. Why is it that you built in a clause that
4	expenses; I'm not really concerned about that right	4	would adjust the fixed monthly fee based on thorough,
5	now.	5	diligent and fair evaluation of claims?
15 100 ds 6	A. Okay, yes.	95 BL 53 6	A. Well, let me speak to the notion that these
_	Q. But there's an expense reimbursement for	7	could be adjusted first. Hopefully, that will answer
65.00.07 <b>/</b>	some nature of expenses DMS incurs on	8	the question. When we set this level of fees, we
9	Jefferson-Pilot's behalf?	9	made some assumptions about what it would cost for us
o≤ eo 14 1O	A. That's correct.	10	to support the client and we established our
05 00 15 11	Q. And then on top of that there is a \$43,700	11	projected expense level and then adjusted that for a
12	fixed monthly fee that was negotiated?	12	profit margin.
05 000 20 13	A. That's correct.	05.02.31 13	We did that without having specific
05 00-23 14	Q. Paragraph 4C suggests that, in addition to	14	experience in managing this block of claims, so we
15	reaching that agreement, it was also agreed during	15	were taking some risk and they were taking some risk
16	the negotiation that every 12 months the fixed	16	about whether or not we were getting paid too much or
17	monthly fees would be subject to further potential	17	too little because this was based on a cost plus a
18	adjustment that was supposed to be negotiated in good	18	margin approach to quoting this fee.
19	faith?	05.03.03 19	At the end of the 12-month period we were
05:00.45 2O	A. That's correct.	20	to evaluate our actual expense experience to
05:00F47 21	Q. Now, it was, I suspect, Jefferson-Pilot's	21	determine whether or not this fee level was
22	expectation, and your expectation, when you entered	22	appropriate, and in terms of selecting the words, I
23	this agreement that your employees would provide	23	think if there was any basis upon which to determine
24	top-flight, efficient, appropriate, accurate and	24	whether or not we were meeting their expectations, it
	, , , , , , , , , , , , , , , , , , , ,		3
	ACCURATE COURT REPORTING (413) 74)-1806		ACCURATE COURT REPORTING (413) 747-1806
	47		48
1	had to do with our thoroughly, diligently, and fairly	1	think or whether your expenses are what you think.
2	evaluating the claims and in supporting their	2	It doesn't speak in those terms, right? It talks
3	administration of the underlying policies.	3	about fair, diligent, accurate evaluation of claims,
05.03:54 4	So this was again, we projected	4	right?
5	expenses, tacked on a margin, we said, "This is what	u5:05:∋z <b>5</b>	<ol> <li>A. It does make reference to thorough,</li> </ol>
6	we think this is going to cost us to do this, but	6	diligent and fair evaluation of claims, yes.
7	we're not sure, so at the end of the 12-month period	o5:05:3∎ 7	Q. And it doesn't make reference to adjusting
8	we're going to evaluate what our actual expenses were	8	it based on any expense anticipation versus
9	and if we're not making our margin it's our	9	realization, right?
10	expectation that we're going to be able to come back	05:05:47 <b>10</b>	A. No, it doesn't make that reference in this
11	and say going forward, if we're going to do this,	11	paragraph.
12	it's going to be at an adjusted level. And by the	US:05.57 12	Q. In your contract with Massachusetts
13	same token if we find that our expenses are less than	13	Casualty you have a submitted budget for expenses and
14	anticipated, then we will adjust our fees down."	14	then there's a true-up in the end?
азом:эк 15	It's typical in a situation like this, they	05:06.05 15	A. Right.
16	didn't want to pay us a lot to do the work and we	us.060s 16	Q. Is there a true-up here with

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versus budget?

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about whether or not you're hitting the margins you

felt that we should be paid to do the work. Without

having the actual experience, you know, I guess they

good job for them, and we were taking the risk that

Q. Okay, the language doesn't suggest anything

we would actually be paid at a level we thought was

necessary to do the work and make a profit.

were taking some risk that we would actually do a

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05 05 12 **23** 

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expenses, we might have been, but we weren't making

Jefferson-Pilot as well in your actual expenses

It's not drafted that way. My

recollection is that the first year we did this we

found that our expenses were higher than what we

thought they would be, and that we actually said to

them -- I'm not even sure we're covering our

	Occo 4:00 ov 00470 MDD Dogumen	40444	Filed 07/40/0007   Dogg 7 of 0
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1	purpose for the contact was.	1	incorporated a potential incentive payment?
05 19 24 2	Q. What year did you receive your MBA from	05.21.30 2	A. That's correct.
3	American International College?	05 21,30 <b>3</b>	Q. And that provision has been taken out of
105 19 35 4	A. It was either 1981 or 1982. I get confused	4	your relationship. Do you have an ongoing
5	because I think I finished school in December and got	5	relationship with Travelers?
6	the degree in the spring, so it may have been '82	05.21.42 6	A. Yes.
7	that I actually received a degree.	05:21:42 7	Q. That no longer is part of the compensation
US 20 10 <b>8</b>	Q. What's a spot bonus?	8	equation with Travelers, is that correct?
	A. A spot bonus, to me, it's a way to	85.21.47 9	A. That's correct.
	compensate an individual for something that	95 21 49 10	
10	•		Q. You understand it's illegal for a third
11	individual had done that you wanted to recognize them	11	party administrator doing disability insurance to get
12	for in a time frame that was closely related to the	12	paid for denying claims?
13	activity. Though it's usually a one-time payment of	05/21/59 13	A. The compensation can't be denied
14	compensation of some money outside of salary.	14	directly or can't be paid tied directly to the
03:20:54 <b>15</b>	I guess the term "spot" means on the spot,	15	denial of claims, yes, I understand that, certainly.
16	I think that's where that comes from.	05:22:10 16	Q. Why was DMS given a 60 percent raise in its
05:20:50 17	Q. Does DMS offer its employees spot bonuses	17	relationship with Mass Casualty last year?
18	for extraordinary work?	65,22:17 18	MR. ELLIS: Objection. Irrelevant
05 21 04 19	<ol> <li>A. We have from time to time.</li> </ol>	19	and misstates the facts.
05.21.07 20	Q. Does it in the year 2004? I'm not saying	e8.22:28 <b>20</b>	A. I don't believe we did receive a 60 percent
21	has one actually been paid in 2004, but is it a	21	raise. That would surprise me a lot.
22	potential benefit?	05.22:31 22	Q. The margin went from 10 percent to 16
08-21:14 23	A. Oh, yes. Absolutely.	23	percent, are you mindful of that?
05.21.21 24	Q. DM5's first agreement with Travelers	95.12:34 24	A. Oh, yeah.
			·
	ACCURATE COURT REPORTING (413) 747-1906		ACCURATE COURT REPORTING (413) 747-1806
	59		60
os 22,38 <b>1</b>	Q. That's 60 percent, isn't it?	1	job of it and you're not in the same kind of
05:22.0x 2	A. Okay. Our margin did increase.	2	competitive situation, and we think that we deserve
05·22.51 <b>3</b>	Q. Why did it increase so dramatically?	3	to be compensated at a higher margin." And frankly,
05.22:51	A. When we negotiated our first contract with	4	we also believed that not only did we deserve a
5	Center, they indicated to us that they were in a	5	higher margin, but that we were their best option and
	competitive situation with one or more other parties	6	that we thought and we were having decisions with
6 7	· ·	7	them about renegotiating our contracts to secure
	that were bidding on a block of business, and that  part of their bid to acquire the business through a	ļ. ļ	3 3
8	, ,	8	long-term agreements. And we thought it was in our
9	reinsurance treaty was dependent upon their ability	9	best interest and their best interest, so we said we
10	to competitively bid, among other things, the	10	want a higher margin on these, and that's where we
11	expenses associated with managing that business	11	arrived at. We were looking for more, they wanted to
12	ongoing, and we were very much interested in securing	12	pay less, and we arrived at that number.
13	that business and to help win that bid, if you will.	e5 25:36 <b>13</b>	Q. You talk about "we" and "they." They
14	We took compensation that, to us, was less than what	14	actually own 40 percent of DMS?
15	we ordinarily would have taken. And that same	<u> </u>	A. True. True.
16	mindset was carried onto the next contract that we	u5:25:35 <b>16</b>	Which is interestingly another reason why
17	did. And then the next time we entered into contract	17	we felt that we should get a higher margin because,
10	diagnosismo mistrathem me asid man has man "Malas as	10	theoretically 40 noment of the unofit manifest the

discussions with them we said, you know, "We're no longer in that kind of situation, and frankly, the first time this happened you guys didn't know whether we could effectively do what we were being asked to do. And so you were taking some risk that perhaps we would not perform well in transitioning that

business. And now, you know that we can do a good

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margin was pretty skinny. Q. They own 40 percent of the enterprise?

theoretically, 40 percent of the profit margin to the

company was going back to them, which meant our

A. True. But they didn't actually work for the enterprise, and the other owners actually did work for the enterprise and ran the enterprise.

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or in in 1	Q. What was your bonus last year, personally?	1	for DMS was 37 million plus. Does that ring a bell?
us 26 11 2	A. My bonus, I think, was a hundred percent of	os 201,311 2	MR. ELLIS: Objection.
3	my salary.	05.28.40 3	A. Sounds like it. It's probably in the
41.26.3a 4	Q. Which was what?	4	ballpark, yes.
05.26. <del>40</del> 5	MR. ELLIS: Objection. You don't	es 28.45 <b>5</b>	Q. And the officers' salaries were just north
6	have to give him that information.	6	of \$2 million?
05 2 <b>6 50</b> 7	A. I'd rather not have that be on the record	HS 281.56 7	MR. ELLIS: Objection.
8	that anybody can just have access to.	05 2H 59 B	A. I don't believe that's I don't believe
as 26.57 <b>9</b>	MR. ELLIS: That's fine.	9	that's true.
05 27 02 <b>10</b>	Q. (By Mr. Roberts) I thought we were done,	as 29 () 10	Q. I will accommodate Mr. Ellis's request that
11	but we're not.	11	this not be an exhibit, but I will show you what
95.2740 <b>12</b>	Did you execute an affidavit in the context	12	appears to be a sworn statement of yours, as well as
13	of the lawsuit pending in Mississippi, I believe it	13	your general counsel, Mr. Cohen, which affirms the
14	was the King case, providing sworn testimony as to	14	accuracy of some attached financial statements, and
15	DMS's financial condition?	15	I'd ask you to review it and confirm for me what the
as 200 16	MR. ELLIS: Same objection. The	16	officers' salaries and officers' bonuses were in
17	information's covered by the Court's	17	2002.
18	protective order that Counsel shouldn't have,	ns 34:03 18	MR. ELLIS: I will again ask Counsel
19	and I will move to keep it protected here.	19	to identify the source of the information.
05.28.14 2O	Q. (By Mr. Roberts) You can answer the	e5:30:11 <b>20</b>	No?
21	question.	08:30:12 21	MR. ROBERTS: I don't have to do
05 24 (H 22	A. I don't recall signing an affidavit in	05.30:14 23	that, Bill.
23   us zic 27   24	connection with the King case. Q. The year-to-date revenue, December 31, 2002	05.30:14 23	MR. ELLIS: Does that mean you refuse to do that?
65 2N 27 6-7	Q. The year-10-date revenue, becember 31, 2002	27	refuse to do inaty
	ACCURATE COURT REPORTING (413) 747-1906		ACCURATE COURT REPORTING (4/3) 747-1906
	63		64
05:30:3 <b>1 1</b>	63  MR. ROBERTS: The document speaks	1	64 suggests there's only four officers?
05:30:18 1 2	MR. ROBERTS: The document speaks for itself.	1 053232 2	suggests there's only four officers?  A. No.
	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?		suggests there's only four officers?
2 05:30:34 <b>3</b> 05:30:15 <b>4</b>	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to	05:33:20 <b>3</b> 05:33:24 <b>4</b>	suggests there's only four officers?  A. No.  Q. Who are the directors of the company?  A. Myself, John Anderson I'm sorry, did you
2 05:30:34	MR. ROBERTS: The document speaks for itself. A. Okay, what is your question? Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.	953232 2 953324 4 953324 5	suggests there's only four officers?  A. No.  Q. Who are the directors of the company?  A. Myself, John Anderson I'm sorry, did you say the directors of the company?
2 as:30.34 3 as:30.15 4 5 6	MR. ROBERTS: The document speaks for itself. A. Okay, what is your question? Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours. I wanted you to confirm that you executed a sworn	653320 3 653324 4 55 653333 6	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir.
2 053034 3 053035 4 5 6 7	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.	6533320 3 653320 4 553320 4 5 653333 6 653333 7	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard
2   05:30:34   3   05:30:35   4   5   6   7   05:30:50   8   0   0   0   0   0   0   0   0	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.	653132 2 653126 3 653124 4 5 653131 6 653131 7	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski.
22 05:30:34	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.  Q. And what you were testifying to in that	95.33.20 3 95.33.24 4 5 95.33.24 7 95.33.34 7 8	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski. Q. How about Eileen Sweeney?
2 us 30.34 3 us 30.34 4 5 6 7 as 30.50 8 8 us 30.54 2 9 10	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.  Q. And what you were testifying to in that sworn statement is the accuracy of the attached	653132 2 653126 3 653124 4 5 653131 6 653131 7	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski. Q. How about Eileen Sweeney? A. She is no longer an officer, or a director
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2 05 30 30 3 3 10 30 15 4 4 5 6 7 7 10 35 30 50 8 10 10 11	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.  Q. And what you were testifying to in that sworn statement is the accuracy of the attached financial statements. And my question is, what is	653332 2 653324 4 55 653334 7 653333 6 653334 7 8 653334 9 653335 9	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski. Q. How about Eileen Sweeney? A. She is no longer an officer, or a director
2 3 3 3 3 4 4 5 5 6 7 8 8 95 39 52 9 10 11 12	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.  Q. And what you were testifying to in that sworn statement is the accuracy of the attached financial statements. And my question is, what is the amount of the officers' salary and officers'	653332 2 65332 4 55 65333 6 65333 7 8 8 8 8333 9 85333 10 11	suggests there's only four officers?  A. No. Q. Who are the directors of the company? A. Myself, John Anderson I'm sorry, did you say the directors of the company? Q. Yes, sir. A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski. Q. How about Eileen Sweeney? A. She is no longer an officer, or a director of the company, rather.  MR. ROBERTS: Mr. Bonsall, thank
2 2 3 3 3 16 5 16 5 5 6 7 8 8 10 5 14 5 2 9 10 11 12 13	MR. ROBERTS: The document speaks for itself.  A. Okay, what is your question?  Q. Two questions. I think the page prior to that, Mr. Bonsall, is the sworn statement of yours.  I wanted you to confirm that you executed a sworn statement in relation to the King case.  A. Okay. I can confirm that.  Q. And what you were testifying to in that sworn statement is the accuracy of the attached financial statements. And my question is, what is the amount of the officers' salary and officers' bonus in 2002 at DMS? If you could identify for the	653326 3 653326 4 55 653326 4 7 8 653326 7 8 653326 9 653326 10 11	suggests there's only four officers?  A. No.  Q. Who are the directors of the company?  A. Myself, John Anderson I'm sorry, did you say the directors of the company?  Q. Yes, sir.  A. Myself, Mr. Anderson, Andy Cohen, Richard Grilli, Michael Ember, Donald Charski.  Q. How about Eileen Sweeney?  A. She is no longer an officer, or a director of the company, rather.  MR. ROBERTS: Mr. Bonsall, thank you. We're completed.
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